

THE LEGISLATIVE BRANCH

Introduction

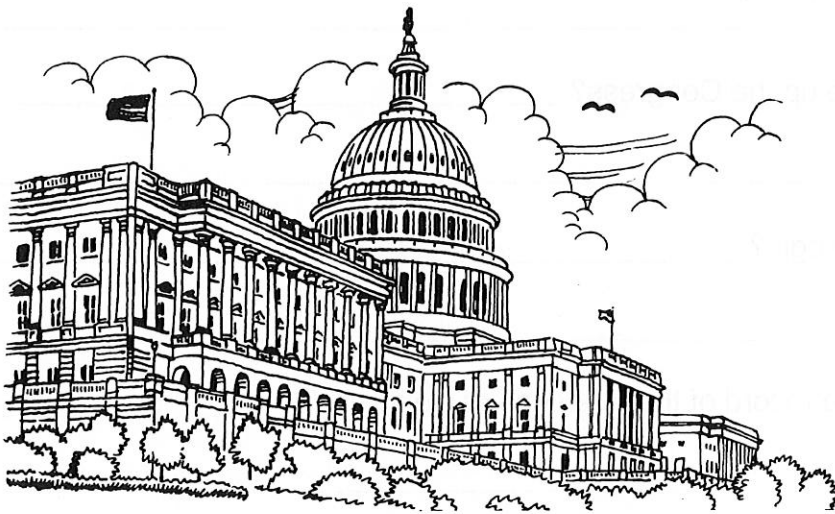
(See Article I, Section 1)

The legislative branch of the United States government is described in Article I of the Constitution. Its major job is to make our country's laws. The American system of government is based on a representative form of government. Not all Americans can meet in the same place at the same time to make laws, so Americans choose representatives to make the laws for them. Representatives carry out the will of the people, or they are replaced during the next election.

Laws are passed by a *majority* vote. Majority means one over half. For example, among 10 people, six or more of them must agree in order to pass a law. The larger group of politicians is known as the majority, and the smaller group is known as the *minority*. If you are in the minority, you try to encourage members of the majority to change sides.

The legislative branch of our Federal government is called Congress. Congress is made up of the House of Representatives and the Senate. Congress begins its meetings on the third day of January every odd-numbered year. The meetings are called terms and they last two years with a recess, or break, during the summer. The first term of Congress met from 1789-91. The House of Representatives and the Senate meet in different

chambers on opposite sides of the Capitol Building in Washington, D.C.



The House of Representatives and the Senate
meet in the U.S. Capitol Building.

The Congress makes its own rules governing its meetings. It can *expel*, or remove, a member by a two-thirds vote. That means that two thirds of the members, not just a majority, have to agree to an action. A record is kept of all the meetings and is published in the *Congressional Record*.

Members of Congress also have certain *privileges*. They cannot be arrested when going to or coming from Congress, or while attending a session of Congress. A member cannot be sued or punished for anything he or she might say in Congress.

The Constitution goes on to define the individual responsibilities and requirements of the two houses of Congress: the House of Representatives and the Senate, our lawmaking bodies.

THE LEGISLATIVE BRANCH

Introduction ≈ **Challenges** ≈

1. Define:

Majority: _____

Minority: _____

Privilege: _____

Expel: _____

2. What is the major duty of the legislative branch? _____

3. What is the legislative body called? _____

4. Where does it meet? _____

5. What two houses make up the Congress? _____

6. When do its meetings begin? _____

7. What is the name of the record of the meetings of Congress? _____

8. List two privileges of members of the United States Congress. _____

THE LEGISLATIVE BRANCH

The House of Representatives

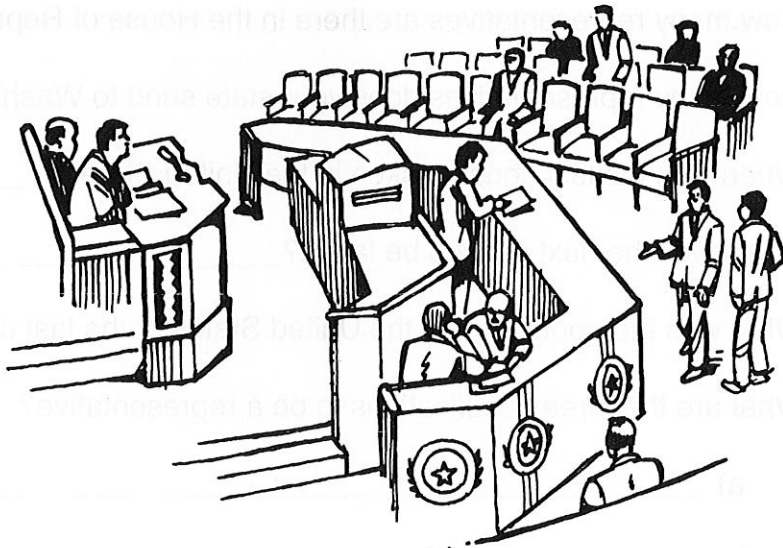
(See Article I, Section 2)

The largest house of Congress is the House of Representatives. There are 435 representatives in the House. The number of representatives a state has is based on the number of people, or population, in the state. There is one representative for every 500,000 people. So if a state has two million people, that state would be able to send four representatives to Washington, D.C.

The term of office for a representative is two years. In order to stay in office, he or she must be reelected every two years.

To find out how many people are in a state, the government conducts a *census*, or count of the people, every ten years. The first census was conducted in 1790. When will the next census occur?

In order to be a representative, there are certain requirements to be met. A representative must be at least 25 years old, must be a citizen of the United States for at least seven years, and must live in the state from which he or she is elected.



The speaker's podium in the House of Representatives' chamber.

Within the House, there are several leaders. The Speaker of the House is the presiding officer. The Speaker is selected by the members of the House and is usually a member of the majority party. The Speaker of the House is second in line to take over the presidency, after the Vice President, in the event of an emergency.

The House of Representatives has the sole power to begin *impeachment* proceedings against a government official. To impeach is to accuse an official of some wrongdoing or misuse of power. The House begins the process by accusing the official, but the trial is carried out by the Senate. More about impeachment will be discussed in later chapters.

THE LEGISLATIVE BRANCH

The House of Representatives

≈ Challenges ≈

1. Define:

Census: _____

Impeach: _____

2. How many representatives are there in the House of Representatives? _____

3. How many representatives does your state send to Washington, D.C.? _____

4. When was the last census taken in the United States? _____

When will the next census be taken? _____

5. What was the population of the United States at the last census? _____

6. What are the three qualifications to be a representative?

a) _____

b) _____

c) _____

7. What is the title of the presiding officer of the House? _____

8. The House begins the impeachment process by doing what? _____

THE LEGISLATIVE BRANCH

The Senate

(See Article I, Section 3)

The other house that makes up the Congress is the Senate. The Senate is the smaller of the two groups, with only 100 members. These people are known as senators. Each state, regardless of how big or small, has two senators. Currently there are 50 states, so we have 100 senators in Washington, D.C.

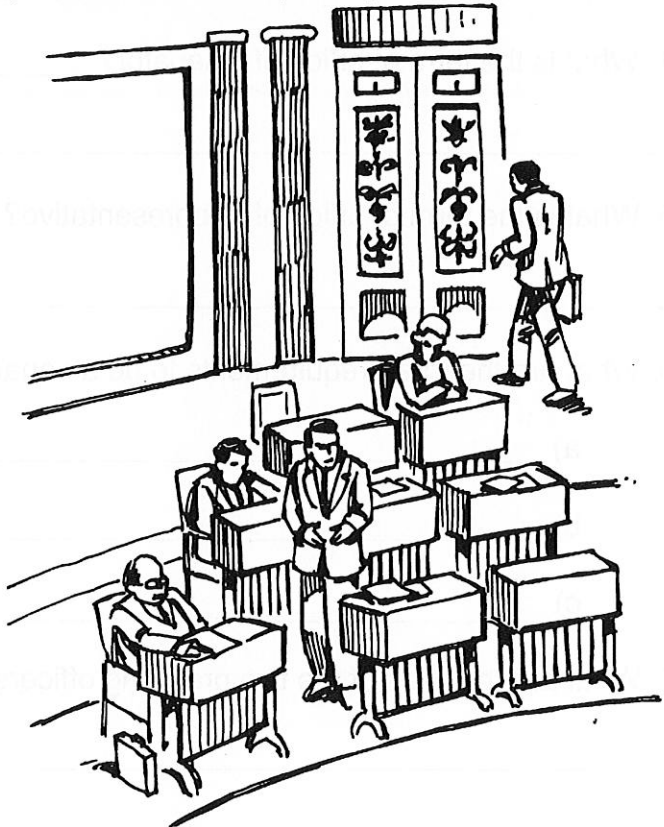
Each senator is elected for a six-year term, but every two years, one third of the senate is up for reelection. For example, in 1992, 33 senators were elected for six-year terms. In 1994, 33 others will be elected, and in 1996, 34 will be elected. This way, there is never an entirely new group of senators; there will always be some experienced senators to guide the newcomers.

According to the original Constitution, the senators were chosen by their state legislatures, but in 1913, the Seventeenth Amendment changed this and allowed the people to elect their senators directly.

In order to be a senator there are certain requirements that must be met. A senator must be at least 30 years old, a citizen of the United States for at least nine years, and live in the state he or she represents.

The Senate also has certain leaders. The Vice President of the United States is in charge of all meetings of the Senate. He can only vote in the event of a tie between the senators. If the Vice President is absent, the senators choose an alternate presiding officer known as the president pro tempore (temporary president). The president pro tempore is third in line to take over the presidency in the event of an emergency.

With regards to the impeachment process mentioned in the last lesson, the Senate acts as the jury and tries any impeachment cases. When the House of Representatives accuses an official of a crime, the Senate decides whether or not the official is guilty. The Chief Justice of the Supreme Court acts as the judge. Two thirds of the senators present must find the official guilty in order to remove him or her from office.



Senators at their desks in the U.S. Senate chamber.

THE LEGISLATIVE BRANCH

The Senate ≈ **Challenges** ≈

1. What are the names of the two houses of Congress? _____

2. How many senators does each state send to Washington? _____

3. What is the total number of senators today? _____

4. What is the term of office of a senator? _____

5. What is the term of office of a representative? _____

6. What are the three requirements to be a senator? _____

a) _____

b) _____

c) _____

7. What are the titles of the two presiding officers of the Senate? _____

8. What does the Senate do during the impeachment process? _____

THE LEGISLATIVE BRANCH

Rules, Rights, and Privileges of Congress

(See Article I, Sections 5, 6)

Each house of Congress develops a set of rules for its members, but the Constitution also sets forth specific rules and rights.

In order for a meeting to be held, there must be a *quorum*. A quorum is one person over half of the number of members. For example, for the Senate to have a quorum, there must be 51 senators present (one over half: 51/100). The same is true of the House of Representatives.

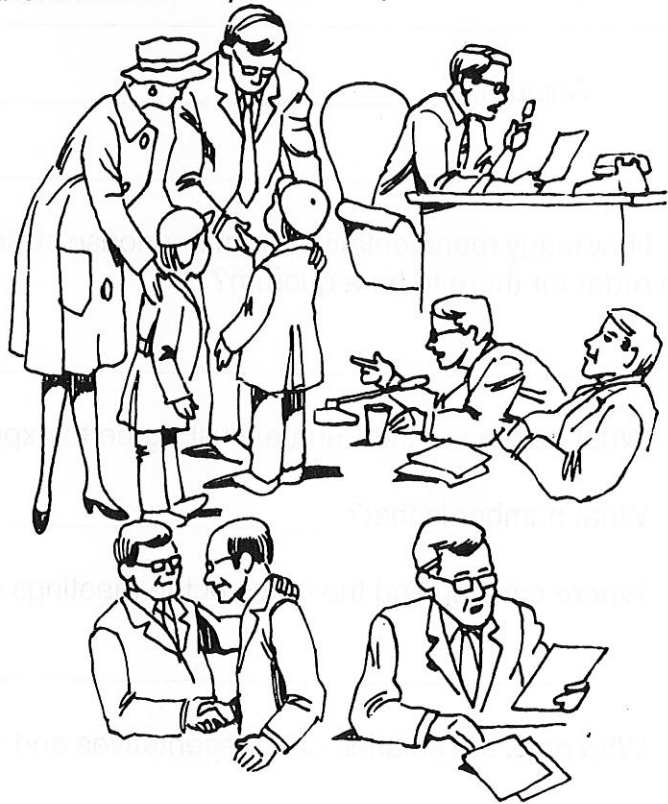
The House and Senate may *expel*, or remove, a member for breaking its rules. To expel a member, two thirds of the House or Senate must agree to the removal.

The House and Senate publish the notes, minutes, and records of their meetings in what is known as the *Congressional Record*.

Both houses of Congress must meet in the same city and must meet during the same time. Neither house can *adjourn*, or stop meeting, without the consent of the other house.

Representatives and senators are paid by the United States government, and their salary is set by law. Members of Congress cannot be arrested during meetings or while going to or from meetings. They also cannot be punished for anything said during one of their meetings.

One right reserved to the House of Representatives is the handling of money matters. Only the House may introduce bills to raise money.



Representatives and senators have many duties including meeting with voters, preparing bills and speeches, and attending committee meetings.

THE LEGISLATIVE BRANCH

Rules, Rights, and Privileges of Congress

≈ Challenges ≈

1. Define:

Quorum: _____

Expel: _____

Adjourn: _____

2. How many representatives from the House of Representatives would need to be present in order for there to be a quorum?

3. What fraction of the Senate must agree to expel a member? _____

What number is that? _____

4. Where can you find the notes of the meetings of Congress? _____

5. Who pays the salaries of representatives and senators? _____

6. What house is the only house to introduce bills to raise money? _____

THE LEGISLATIVE BRANCH***Powers of Congress***

(See Article I, Section 8)

The Constitution gives the Congress (the House and the Senate) certain specific powers. Among those listed in Section 8 are the powers to tax, borrow money, regulate commerce (trade), and naturalization (the process by which one can become a United States citizen). Also included are the powers to coin money, establish a system of weights and measurements, establish a post office, declare war, and provide a military. These are many of the important powers specifically granted to the Congress.

Article 1, Section 8, Clause 18 is very important to the Congress. It is known as the “elastic clause.” The elastic clause gives Congress the power “to make all laws which shall be necessary and proper” to carry out its responsibilities.

The powers given to Congress can be broken down into three areas: *enumerated* powers, *implied* powers, and *inherent* powers.

Enumerated powers are powers specifically given to the Congress by the Constitution. They are written. An example would be the power to declare war.

Implied powers are powers given to the Congress that are general. They are stated, but not enough information is given in the Constitution about details. An example would be: the Constitution in Article 1, Section 8, Clause 7 states, “To establish post offices and post roads.” Obviously, more is needed to run the post office than just roads; there are the mail carriers, security, and buildings. The Constitution assumes that the Congress will take care of these matters, too.

Inherent powers are unlisted powers that a government must have simply because it exists as a government and needs to run its affairs smoothly. The best example of this is the need to conduct foreign affairs. The Constitution does not discuss foreign affairs, but because the United States is a country, we must deal with foreign countries diplomatically.



Congress is responsible for maintaining the military forces in the United States.

THE LEGISLATIVE BRANCH

Powers of Congress

≈ **Challenges** ≈

1. List and describe four powers given to the Congress by Article I, Section 8:

a) _____

b) _____

c) _____

d) _____

2. What is the “elastic clause”? _____

3. Define enumerated powers and give an example. _____

4. Define implied powers and give an example. _____

5. Define inherent powers and give an example. _____

THE LEGISLATIVE BRANCH

Limits on Congress and the States

(See Article I, Sections 9, 10)

We saw in the last lesson what powers the Constitution gave the Congress. Now we are going to look at what the Constitution told the Congress it could *not* do.

First, the Constitution told the Congress it could not make any laws outlawing the slave trade until 1808. This clause deals with the rivalry between the northern and southern states. As you will study, this rivalry erupts into the Civil War in 1861.

The second limitation deals with the legal term known as *habeas corpus*. Habeas corpus literally means "you shall have the body." This right of habeas corpus allows a person to be seen and heard in a courtroom by a judge. If you are to be found guilty or not guilty, you have the right to appear in court. The government can not take that right away except in cases of rebellion or invasion.

The Constitution outlawed *bills of attainder*. A bill of attainder is a law passed by the government that convicts a person of a crime and punishes them without a trial.

Another limitation set by the Constitution is that Congress cannot pass *ex post facto laws*. An *ex post facto* law punishes people for a crime that was not a crime when they did it. For example, Mr. Z was smoking a cigarette on his lawn on Monday. On Tuesday, Congress passed a law forbidding smoking in the United States. Wednesday, the police came and arrested Mr. Z for smoking on Monday. When Mr. Z smoked on Monday, it was not a crime. Under the *ex post facto* clause of the Constitution, punishment of Mr. Z is forbidden.

Other limits on Congress are that it cannot tax products from a state, it cannot give preference to any state's seaport, government money can only be spent by passing a law, and finally, Congress cannot issue titles of nobility. That means the Senate or House cannot make people knights, lords, or duchesses.

The Constitution also puts certain limits on the states. First, they cannot make treaties with other countries. Secondly, they cannot coin their own money. Finally, they cannot do the items mentioned in the above three paragraphs.

The powers of government can be put into three categories: *delegated*, *concurrent*, and *reserved* powers. Delegated powers are powers that are given to the national government in Washington, D.C., such as the power to declare war. Concurrent powers are powers that are shared between the national and state governments, such as the power to tax. Finally, reserved powers are powers that only the states have, such as the power to create a school system. It is important to keep these different powers in mind as we discuss the remainder of the Constitution.



Prior to the Constitution, people were often arrested and jailed without being charged or having a trial.

THE LEGISLATIVE BRANCH

Limits on Congress and the States

≈ Challenges ≈

1. What does "habeas corpus" mean, literally? _____

2. Why does the Constitution prevent Congress from taking away our right of habeas corpus? _____

3. What is a bill of attainder? _____

4. What is an ex post facto law? Give an example. _____

5. What is one other limit placed on the Congress? _____

6. What are two additional limitations placed on the states by the Constitution?

a) _____

b) _____

7. Explain these three powers:

Delegated: _____

Concurrent: _____

Reserved: _____